THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.27313 of 2005

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03.01.2006

Between:

H.B.Jairaj, S/o.late B.R.Basavaraj

... Petitioner

AND

The Municipal Corporation of Hyderabad, rep by its

Commissioner, Tank Bund Road, Hyderabad

And another

...Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.27313 of 2005

ORDER:

The petitioner is the owner of premises bearing No.3-5-575 and 3-5-575/1 situated at Vittalwadi, Narayanaguda, which was gifted to him by his mother under registered gift deed. The petitioner later entered into a development agreement with M/s.Royal House Constructions (hereafter called, the builder). Be that as it is, the petitioner submitted an application under Section 428 of Hyderabad Municipal Corporations Act, 1955 (HMC Act, for brevity) on 23.5.2005 to the Municipal Corporation of Hyderabad (hereafter called, MCH), the first respondent herein. The authorities refused to receive the application and advised the petitioner to produce No objection certificate (NOC)/extract of Town Survey Land Register (TSLR). Aggrieved by the same, the petitioner filed writ petition being W.P.No.2938 of 2005 before this Court. By order dated 09.3.2005, this Court disposed of the said writ petition directing MCH to consider the application of the petitioner without insisting upon the submission of NOC by revenue authorities. However, this Court observed that the petitioner shall

be under obligation to file extract of TSLR in relation to the land on which construction is proposed.

The petitioner thereafter obtained certified extract of TSLR on 08.4.2005. The TSLR shows the name of the petitioner's mother, Vasanthi Devi, as the owner and occupier of the premises No.3-5-575 admeasuring Acs.0.08 gts. 16 Sq.mts. equivalent to 1069 Sq.yards. The petitioner thereafter approached MCH by producing a copy of the same. By a communication dated 13.12.2005, the Chief City Planner informed the petitioner that he is required to submit TSLR extract for premises No.3-5-575/1. Aggrieved by the same, the present writ petition is filed *inter alia* seeking a direction to MCH to process the application of the petitioner.

This Court has heard the learned Counsel for petitioner and learned Standing Counsel for MCH. The learned Counsel for petitioner has taken this Court through the necessary documents filed along with the writ petition. The petitioner applied for building permission for construction of stilt + 5 floors in premises Nos.3-5-575 and 3-5-575/1 admeasuring 1030.50 Sq.yards equivalent to 862 Sq.mts. It appears, the premises No.3-5-575 as well as the premises No.3-5-575/1 were always treated as premises No.3-5-575 and MCH has been collecting the taxes for both the premises. Necessary tax receipts have been filed to the said effect. Secondly, a perusal of the TSLR would show that Vasanthi Devi was owner of the entire extent of Acs.0.08 gts. 16 Sq.mts. equivalent to 1069 Sq.yards comprised in premises No.3-5-575 and therefore, there cannot be any dispute that the TSLR correlates to both the premises on which the petitioner wants to raise the construction especially when there is no objection from anybody for the same. The things would have been different if the area of the premises No.3-5-575/1 was shown separately in excess of about 1,050 Sq.yards, which is the area of the premises bearing No.3-5-575/1. Merely because for the purpose of levying and collecting municipal taxes, the premises is treated separately with the sub-divided number, the MCH cannot reject the certificates furnished by the petitioner on the ground that he did not produce the TSLR for premises No.3-5-575/1. Be it noted, as held by this Court in **Hyderabad Potteries Private Ltd., v Collector, Hyderabad**, no power inheres in the Commissioner to decide a question of title and the power to grant the building permission does not confer any right or take away the rights of the third parties. Keeping this in view, the writ petition is disposed of directing MCH to consider the TSLR produced by the petitioner and grant necessary building permission, if the plan of the proposed building submitted by the petitioner is in accordance with MCH Building Byelaws 1981 and other rules and regulations, as per G.O.Ms.No.423 dated 30.7.1998. This exercise may be completed within a period of four weeks from the date of receipt of a copy of this order.

The writ petition, with the above observations and directions, is accordingly disposed of. There shall be no order as to costs.

(**V.V.S.RAO, J**)

January 03, 2006.

Note:

Issue order copy by 09.01.2006.

(By order)

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